

REMARKS/ARGUMENTS

Claims 1-43 are subject to a restriction requirement in the outstanding Official Action. Claims 1, 22 and 23 have been amended and therefore claims 1-43 are the only claims remaining in this application.

Applicants elect Species A directed to claims 1-3 and 5-43, but the election is with a strong traverse based upon the Examiner's misunderstanding of the patentability of claim 1.

Traversal of the Election Requirement

The Examiner's indication that claim 1 is generic to all species is very much appreciated. However, Applicants also believe claims 22 and 23 are generic to all species (there is no "discrete" or "monolithic" limitation contained in these claims. Clarification as to which claims are believed generic is respectfully requested.

The Examiner bases his restriction requirement on the contention that generic claim 1 "is not inventive in itself as patent # 5,917,596 teaches laser (24), modulation means to intensity modulate radiation (38, as splitting a beam affects the beam intensity), and hollow core waveguide structure (12) in a substrate." Presumably, this conclusion is necessary in order for the Examiner to find that there is no patentable linking between claims 1, 22 and 23 and claims dependent thereon. This contention by the Examiner is respectfully traversed.

Applicants attach hereto page 763 from Webster's Ninth New Collegiate Dictionary which includes the definition of "modulate" to be "to vary the amplitude, frequency, or phase of (a carrier wave or a light wave) for the transmission of intelligence (as by radio)." Applicant also includes the definition of "modulate" on page 1284 of the McGraw-Hill Dictionary of Scientific and Technical Terms dictionary which means "to vary the amplitude, frequency, or

phase of a wave, or vary the velocity of the electrons in an electron beam in some characteristic manner.” The same Dictionary on page 1285 includes the definition of “modulation” as “the process or the result of the process by which some parameter of one wave [the carrier] is varied in accordance with some parameter of another wave [the modulating signal].”

Applicant’s specification also defines “modulation” as “to carry information.” (Page 1, second paragraph). Applicants’ independent claims all specify “information modulating” consistent with the description of “modulation” in the above dictionaries and consistent with the definition in the specification.

Moreover, those of ordinary skill in the art will be well aware of the above definition, but Applicants have clearly included it in the three independent generic claims. While it is noted that all claims recite “information modulated radiation,” claim 1 recites a “modulation means” which is a clear reference to means-plus-function format. Given the presumption of means-plus-function format since Applicants have used the word “means,” the Examiner is obligated to construe this structure to cover the corresponding structures in Applicants’ specification and equivalents thereto.

However, even if the Examiner believes sufficient structure has been recited in independent claim 1, it is clear that the radiation must be “information” modulated, i.e., there must be some information impressed upon the radiation by means of variations in amplitude, frequency or phase or other modulating means. Because this structure is positively recited in each of Applicants’ three independent claims, it is incumbent upon the Examiner to determine whether this is disclosed in U.S. Patent 5,917,596, i.e., the Jenkins et al patent.

A review of the Jenkins patent will indicate that, contrary to the Examiner's contention, there is no disclosure of any "modulation means." While the Examiner correctly notes that a beam splitter 38 will divide an existing intensity beam into two or more beams of lesser intensity, there is no "information" impressed upon either of the split beams. As the input beam has a generally consistent intensity, the split beams will be of general consistent intensities as well, although the sum of the split beam intensities will be equal to or less than that of the original beam intensity.

Because each of the split beams in Jenkins '596 is a relatively constant beam, by definition there is no "information" modulation of the beams. Therefore Jenkins '596 fails to anticipate or render obvious the subject matter of Applicants' independent claims 1, 22 and 23. Accordingly, the Examiner's conclusion that Jenkins '596 anticipates or renders obvious the subject matter of generic claims 1, 22 and 23 is respectfully traversed, and the Examiner is respectfully requested to take judicial notice of the definition of "modulating" as set out in the attached dictionary definitions as well as the definition contained in Applicants' specification.

Should the Examiner dispute the definition of "modulating" in the dictionaries and/or the specification, he is respectfully requested to provide some evidence of any definition which does not require "information" to be impressed on the carrier. If the Examiner accepts the definition as noted above, he is respectfully requested to identify where any beam in Jenkins '596 has any modulation impressed on it by the beamsplitter. The Examiner is also requested to admit that beamsplitters do not normally modulate a laser signal, or, if not admitted, provide evidence to the contrary.

Applicants have elected with traverse Species A and has noted that claims 1-3 and 5-43 appear to read thereon. Applicants have also noted that in addition to claim 1 being generic, claims 22 and 23 are also believed to be generic. Accordingly, in view of the fact that claims 1, 22 and 23 are believed clearly allowable over the Jenkins '596 reference, there is believed to be a single general inventive concept under PCT Rule 13.1 and accordingly the restriction requirement is improper and is respectfully traversed.

Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 1-43 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

Respectfully submitted,

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Enclosures:

Page 763, Webster's Ninth New Collegiate Dictionary definition "modulate"
Page 1284, McGraw-Hill Scientific and Technical Terms definition "modulate"
Page 1285, McGraw-Hill Scientific and Technical Terms definition "modulation"

Treatment of molten aluminum alloys containing 8–13% silicon with small amounts of a sodium fluoride or sodium chloride mixture; improves mechanical properties. [MOL BIO] In nucleic acid metabolism, any changes made to deoxyribonucleic acid or ribonucleic acid after their original incorporation into a polynucleotide chain. [SCI TECH] Any change brought about by external or internal factors. { 'mäd-ə-fə'kā-shən }

modification kit [ENG] A collection of items not all having the same basic name which are employed individually or conjunctively to alter the design of a component or equipment. { 'mäd-ə-fə'kā-shən ,kit }

modified asphalt [MATER] Asphalt modified by addition of a rosin ester or synthetic resin. { 'mäd-ə,fid 'as,fəlt }

modified Bessel equation [MATH] The differential equation $z^2 f''(z) + z f'(z) - (z^2 + n^2) f(z) = 0$, where z is a variable that can have real or complex values and n is a real or complex number. { 'mäd-ə,fid 'bes-əl i,kwā-zhən }

modified Bessel functions [MATH] The functions defined by $I_\nu(x) = \exp(-i\nu\pi/2) J_\nu(ix)$, where J_ν is the Bessel function of order ν , and x is real and positive. { 'mäd-ə,fid 'bes-əl ,fəŋk-shənz }

modified base [MOL BIO] A nucleotide that is an altered form of the usual four nucleic acid bases. { 'mäd-ə,fid 'bās }

modified betatron [NUCLEO] A betatron in which the orbital stability properties of the beam are improved by adding a toroidal magnetic field. { 'mäd-ə,fid 'bäd-ə,tran }

modified constant-voltage charge [ELEC] Charging of a storage battery in which the voltage of the charging circuit is held substantially constant, but a fixed resistance is inserted in the battery circuit producing a rising voltage characteristic at the battery terminals as the charge progresses. { 'mäd-ə,fid 'kän-stənt 'völ-tij 'chärj }

modified exponential curve [STAT] The equation resulting when a constant is added to the exponential curve equation; used to estimate trend in a nonlinear time series. { 'mäd-ə,fid ,ek-spə,nen-chəl 'kərv }

modified gunmetal [MET] Gunmetal containing about 2.5% lead; used for gears and bearings. { 'mäd-ə,fid 'gən,med-əl }

modified Hankel functions [MATH] The functions defined by $K_\nu(x) = (i\pi/2) \exp(i\nu\pi/2) H_\nu^{(1)}(ix)$, where $H_\nu^{(1)}$ is the first Hankel function of order ν , and x is real and positive. Also known as MacDonald functions. { 'mäd-ə,fid 'hänk-əl ,fəŋk-shənz }

modified index of refraction [METEOROL] An atmospheric index of refraction mathematically modified so that when its gradient is applied to energy propagation over a hypothetical flat earth, it is substantially equivalent to propagation over the true curved earth with the actual index of refraction. Also known as modified refractive index; refractive modulus. { 'mäd-ə,fid 'in,deks əv n'frak-shən }

modified Julian date [ASTRON] The Julian date minus 2,400,000.5. Abbreviated MJD. { 'mäd-ə,fid 'jül-yən 'där }

modified Lambert conformal chart [MAP] A chart on the modified Lambert conformal projection. Also known as Ney's chart. { 'mäd-ə,fid 'lam-bərt kən,fərməl 'chärt }

modified Lambert conformal projection [MAP] A modification of the Lambert conformal projection for use in polar regions, one of the standard parallels being at latitude 89°59'58" and the other at latitude 71° or 74°, and the parallels being expanded slightly to form complete concentric circles. Also known as Ney's projection. { 'mäd-ə,fid 'lam-bərt kən,fərməl prə'jek-shən }

modified Lewis acid [PHYS CHEM] An acid that is a halide ion acceptor. { 'mäd-ə,fid 'lü-əs ,as-əd }

modified mean [STAT] A mean computed after elimination of observations judged to be atypical. { 'mäd-ə,fid 'mēn }

modified precision approach radar [NAV] A special precision radar approach landing procedure for high performance aircraft; radar guidance is provided to a landing flare point instead of a runway touchdown point. { 'mäd-ə,fid prə'sizh-ən ə'pröch 'rā,där }

modified rayon [TEXT] A woollike rayon fiber made with additives in the spinning solution. { 'mäd-ə,fid 'rā,än }

modified refractive index See modified index of refraction. { 'mäd-ə,fid n'frak-tiv 'in,deks }

modifier [COMPUT SCI] A quantity used to alter the address of an operand in a computer, such as the cycle index. Also known as index word. [MATER] In flotation, any of the chemicals which increase the specific attraction between collector agents

and particle surfaces or which increase the wettability of those surfaces. { 'mäd-ə,fi-ər }

modifier gene [GEN] A gene that alters the phenotypic expression of a nonallelic gene. { 'mäd-ə,fi-ər jēn }

modifier register See index register. { 'mäd-ə,fi-ər ,rej-ə-stər }

modify [COMPUT SCI] 1. To alter a portion of an instruction so its interpretation and execution will be other than normal; the modification may permanently change the instruction or leave it unchanged and affect only the current execution; the most frequent modification is that of the effective address through the use of index registers. 2. To alter a subroutine according to a defined parameter. { 'mäd-ə,fi }

modify structure [COMPUT SCI] A statement in a database language that allows changes to be made in the structure of the records in a file. { 'mäd-ə,fi ,strək-chər }

modillon [ARCH] A horizontal bracket, usually in the form of a scroll with acanthus, supporting the corona under a cornice. { mō'dil-yən }

moding [ELECTR] Defect of magnetron oscillation in which it oscillates in one or more undesired modes. { 'mōd-iŋ }

modiolus [ANAT] The central axis of the cochlea. { mō'di-ə-ləs }

modula-2 [COMPUT SCI] A general-purpose programming language that allows a computer program to be written as separate modules which can be compiled separately but can share a common code. { 'mäj-ə-lə 'tü }

modular circuit [ELECTR] Any type of circuit assembled to form rectangular or cubical blocks that perform one or more complete circuit functions. { 'mäj-ə-lər 'sər-kət }

modular compilation [COMPUT SCI] The separate translation into machine language of the individual parts of a computer program, which are then combined into a single program by a linkage editor. { 'mäj-ə-lər ,käm-pə'lā-shən }

modularity [COMPUT SCI] The property of functional flexibility built into a computer system by assembling discrete units which can be easily joined to or arranged with other parts or units. { 'mäj-ə-lar-əd-ē }

modular programming [COMPUT SCI] The construction of a computer program from a collection of modules, each of workable size, whose interactions are rigidly restricted. { 'mäj-ə-lər 'prō,gram-iŋ }

modular structure [BUILD] A building that is constructed of preassembled or presized units of standard sizes; uses a 4-inch (10.16-centimeter) cubical module as a reference. [ELECTR] 1. An assembly involving the use of integral multiples of a given length for the dimensions of electronic components and electronic equipment, as well as for spacings of holes in a chassis or printed wiring board. 2. An assembly made from modules. { 'mäj-ə-lər 'strək-chər }

modulate [ELECTR] To vary the amplitude, frequency, or phase of a wave, or vary the velocity of the electrons in an electron beam in some characteristic manner. { 'mäj-ə,lā }

modulated amplifier [ELECTR] Amplifier stage in a transmitter in which the modulating signal is introduced and modulates the carrier. { 'mäj-ə,lād-əd 'am-plə,fi-ər }

modulated carrier [COMMUN] Radio-frequency carrier wave whose amplitude phase or frequency has been varied according to the intelligence to be conveyed. { 'mäj-ə,lād-əd 'kär-ē-ər }

modulated continuous wave [COMMUN] Wave in which the carrier is modulated by a constant audio-frequency tone. { 'mäj-ə,lād-əd kən'tin-yə-wəs 'wāv }

modulated Raman scattering [SPECT] Application of modulation spectroscopy to the study of Raman scattering; in particular, use of external perturbations to lower the symmetry of certain crystals and permit symmetry-forbidden modes, and the use of wavelength modulation to analyze second-order Raman spectra. { 'mäj-ə,lād-əd 'rä-mən ,skad-ə-tiŋ }

modulated stage [ELECTR] Radio-frequency stage to which the modulator is coupled and in which the continuous wave (carrier wave) is modulated according to the system of modulation and the characteristics of the modulating wave. { 'mäj-ə,lād-əd 'stāj }

modulating codon [MOL BIO] A codon that controls the frequency of transcription of a cistron. { 'mäj-ə,lād-iŋ 'kō,dōn }

modulating electrode [ELECTR] Electrode to which a potential is applied to control the magnitude of the beam current. { 'mäj-ə,lād-iŋ i'lek,trod }

modulating signal [COMMUN] Signal which causes a varia-

tion of some characteristics of a carrier. { 'mäj-ə, lād-ɪŋ 'sɪgnəl }

modulation [COMMUN] The process or the result of the process by which some parameter of one wave is varied in accordance with some parameter of another wave. [MECH ENG] Regulation of the fuel-air mixture to a burner in response to fluctuations of load on a boiler. { 'mäj-ə 'lā-shən }

modulation capability [ELECTR] Of an aural transmitter, the maximum percentage modulation that can be obtained without exceeding a given distortion figure. { 'mäj-ə 'lā-shən, kə-pə- 'bɪl-əd-ē }

modulation code [COMMUN] A code used to cause variations in a signal in accordance with a predetermined scheme; normally used to alter or modulate a carrier wave to transmit data. { 'mäj-ə 'lā-shən, kōd }

modulation crest [COMMUN] The peak amplitude of an amplitude-modulated wave. { 'mäj-ə 'lā-shən 'krest }

modulation-doped field-effect transistor See high-electron mobility transistor. { 'mäj-ə 'lā-shən 'dɒpt 'fi:ld i'fekt træn'zɪstər }

modulation-doped structure [SOLID STATE] An epitaxially grown crystal structure in which successive semiconductor layers contain different types of electrical dopants. { 'mäj-ə 'lā-shən 'dɒpt 'strɒk-ʃər }

modulation envelope [COMMUN] A curve drawn through the peaks of a graph showing the waveform of a modulated signal; represents the waveform of the intelligence carried by the signal. { 'mäj-ə 'lā-shən 'en-və, lɒp }

modulation factor [COMMUN] 1. In general, the ratio of the peak variation in the modulation actually used in a transmitter to the maximum variation for which the transmitter was designed. 2. In an amplitude-modulated wave, the ratio (usually expressed in percent) of the peak variation of the envelope from its reference value, to the reference value. Also known as index of modulation. 3. In a frequency-modulated wave, the ratio of the actual frequency swing to the frequency swing required for 100% modulation. { 'mäj-ə 'lā-shən, fəktər }

modulation index [COMMUN] The ratio of the frequency deviation to the frequency of the modulating wave in a frequency-modulation system when using a sinusoidal modulating wave. Also known as ratio deviation. { 'mäj-ə 'lā-shən, ɪn, deks }

modulation meter [ENG] Instrument for measuring the degree of modulation (modulation factor) of a modulated wave train, usually expressed in percent. { 'mäj-ə 'lā-shən, mēd-ər }

modulation rise [ELECTR] Increase of the modulation percentage caused by nonlinearity of any tuned amplifier, usually the last intermediate-frequency stage of a receiver. { 'mäj-ə 'lā-shən, rɪz }

modulation spectroscopy [SPECT] A branch of spectroscopy concerned with the measurement and interpretation of changes in transmission or reflection spectra induced (usually) by externally applied perturbation, such as temperature or pressure change, or an electric or magnetic field. { 'mäj-ə 'lā-shən spek'trəs-kə-pē }

modulation transformer [ENG ACOUS] An audio-frequency transformer which matches impedances and transmits audio frequencies between one or more plates of an audio output stage and the grid or plate of a modulated amplifier. { 'mäj-ə 'lā-shən tranz,fɔrmər }

modulation with a fixed reference [COMMUN] Phase modulation with a pilot carrier. { 'mäj-ə 'lā-shən wɪθ ə 'fɪks 'ref-rəns }

modulator [ELECTR] 1. The transmitter stage that supplies the modulating signal to the modulated amplifier stage or that triggers the modulated amplifier stage to produce pulses at desired instants as in radars. 2. A device that produces modulation by any means, such as by virtue of a nonlinear characteristic or by controlling some circuit quantity in accordance with the waveform of a modulating signal. 3. One of the electrodes of a spaciator. { 'mäj-ə, lād-ər }

modulator crystal [OPTICS] Crystal which is used to modulate a polarized light beam by the use of the Pockel's effect; useful as a modulator in laser systems. { 'mäj-ə, lād-ər, krist-əl }

modulator-demodulator See modem. { 'mäj-ə, lād-ər də'mäj-ə, lād-ər }

modulator glow tube [ELECTR] Cold cathode recorder tube that is used for facsimile and sound-on-film recording; provides

a modulated high-intensity point source of light. { 'mäj-ə, lād-ər 'glō, tʌb }

module [AERO ENG] A self-contained unit which serves as a building block for the overall structure in space technology; usually designated by its primary function, such as command module or lunar landing module. [COMPUT SCI] 1. A distinct and identifiable unit of computer program for such purposes as compiling, loading, and linkage editing. 2. One memory bank and associated electronics in a computer. [ELECTR] A packaged assembly of wired components, built in a standardized size and having standardized plug-in or solderable terminations. [ENG] A unit of size used as a basic component for standardizing the design and construction of buildings, building parts, and furniture. [MATH] A vector space in which the scalars are a ring rather than a field. { 'mäj-ül }

modulo [MATH] 1. A group G modulo a subgroup H is the quotient group G/H of cosets of H in G . 2. A technique of identifying elements in an algebraic structure in such a manner that the resulting collection of identified objects is the same type of structure. { 'mäj-ə, lō }

modulo N [MATH] Two integers are said to be congruent modulo N (where N is some integer) if they have the same remainder when divided by N . { 'mäj-ə, lō 'en }

modulo N arithmetic [MATH] Calculations in which all integers are replaced by their remainders after division by N (where N is some fixed integer.) { 'mäj-ə, lō 'en ə'rɪθ-mə-tɪk }

modulo N check [COMPUT SCI] A procedure for verification of the accuracy of a computation by repeating the steps in modulo N arithmetic and comparing the result with the original result (modulo N). Also known as residue check. { 'mäj-ə, lō 'en 'tʃek }

modulo-two adder [COMPUT SCI] A logical circuit for adding one-digit binary numbers. { 'mäj-ə, lō 'tʌ 'ad-ər }

modulus [MATH] 1. The modulus of a logarithm with a given base is the factor by which a logarithm with a second base must be multiplied to give the first logarithm. 2. See absolute value. { 'mäj-ə-ləs }

modulus of a congruence [MATH] A number a , such that two specified numbers b and c give the same remainder when divided by a ; b and c are then said to be congruent, modulus a (or congruent, modulo a). { 'mäj-ə-ləs əv ə kən'gru-əns }

modulus of compression See bulk modulus of elasticity. { 'mäj-ə-ləs əv kəm'presh-ən }

modulus of continuity [MATH] For a real valued continuous function f , this is the function whose value at a real number r is the maximum of the modulus of $f(x) - f(y)$ where the modulus of $x - y$ is less than r ; this function is useful in approximation theory. { 'mäj-ə-ləs əv, kən'tɪn-ü-əd-ē }

modulus of decay [MECH] The time required for the amplitude of oscillation of an underdamped harmonic oscillator to drop to $1/e$ of its initial value; the reciprocal of the damping factor. { 'mäj-ə-ləs əv dɪ'kæ }

modulus of deformation [MECH] The modulus of elasticity of a material that deforms other than according to Hooke's law. { 'mäj-ə-ləs əv, də,fɔrmə'shən }

modulus of distance [ASTRON] The quantity $m - M$, where M is the absolute magnitude of a given star and m is its apparent magnitude. Also known as distance modulus. { 'mäj-ə-ləs əv 'dɪst-əns }

modulus of elasticity [MECH] The ratio of the increment of some specified form of stress to the increment of some specified form of strain, such as Young's modulus, the bulk modulus, or the shear modulus. Also known as coefficient of elasticity; elasticity modulus; elastic modulus. { 'mäj-ə-ləs əv i,ləs'tɪs-əd-ē }

modulus of elasticity in shear [MECH] A measure of a material's resistance to shearing stress, equal to the shearing stress divided by the resultant angle of deformation expressed in radians. Also known as coefficient of rigidity; modulus of rigidity; rigidity modulus; shear modulus. { 'mäj-ə-ləs əv i,ləs'tɪs-əd-ē ɪn 'ʃɪr }

modulus of resilience [MECH] The maximum mechanical energy stored per unit volume of material when it is stressed to its elastic limit. { 'mäj-ə-ləs əv rɪ'zɪl-ɪəns }

modulus of rigidity See modulus of elasticity in shear. { 'mäj-ə-ləs əv rɪ'jɪd-əd-ē }

modulus of rupture in bending [MECH] The maximum stress per unit area that a specimen can withstand without breaking when it is bent, as calculated from the breaking load under